



Mark A. Neubauer

SHAREHOLDER

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Overview

Mark Neubauer focuses his practice on sophisticated litigation including commercial, securities, antitrust, real estate, employment, and entertainment. He has tried numerous jury and bench cases in both state and federal courts during his 30-plus years of practice.

Mark's legal skills have been repeatedly recognized. In 2010, his jury trial victory for Johnson & Johnson was chosen by the *Los Angeles Daily Journal* as one of the "Top 10 Defense Verdicts" of the year in California. He has consistently been named one of the "Bet the Company" Commercial Lawyers in California by *The Best Lawyers of America* and to the *Los Angeles Daily Journal's* list of "Top Labor & Employment Lawyers" in California.

Mark has also held a number of leadership positions with the American Bar Association (Vice-Chair of the ABA Standing Committee on Publications and ABA Journal Board of Editors), the California State Bar (State Bar Litigation Section Chair), Association of Business Trial Lawyers (President) and the Los Angeles County Bar Association (Assistant Vice President). He also has been recognized for his pro bono work regarding impact litigation for both health and education reform.

A member of the California State and the District of Columbia Bar, Mark received his J.D. from UCLA School of Law and his M.S. and B.S., with distinction, from Northwestern University's Medill School of Journalism. He is a former reporter with the *Miami Herald* and covered the U.S. Supreme Court for the Knight-Ridder newspaper chain.

Mark is the Los Angeles office managing shareholder.

Experience

- *Office Depot, Inc. v. AIG Specialty Insurance Co.*. Won summary judgment on behalf of carrier against a claim for insurance coverage and indemnification with regard to a \$77.5M settlement of a qui tam action under California's False Claims Act. Summary judgment was upheld after appeal to the Ninth Circuit.
- *Davis v. Einstein Noah Rest. Grp., Inc.*, No. 4:19-cv-00771 (N.D. Cal. Oct. 23, 2019). Mark won the dismissal of all class action claims against his clients, Einstein Bagel and Caribou Coffee, eliminating any class damages and leaving

the plaintiff's individual claim at \$1,000 or less. The lawsuit, which alleged violations of the Fair Credit Reporting Act, California's Investigative Consumer Reporting Agencies Act, and California's Unfair Competition Law, was dismissed with prejudice on enforcement of a class action waiver in the arbitration agreement.

- *In re Tribune Co. Fraudulent Conveyance Litig.*, No. 1:12-mc-02296, 2018 WL 6329139 (S.D.N.Y. Nov. 30, 2018). Mark won a motion to dismiss in favor of his client, Durham Monsma, who was sued as an officer/director of a subsidiary of the Tribune. Mr. Monsma was the only subsidiary D&O who prevailed on the merits in this massive fraudulent conveyance litigation involving more than 5,000 defendants.
- *Office Depot Inc. v. AIG Specialty Ins. Co.*, No. 2:15-cv-02416 (C.D. Cal. June 21, 2019).
- *PAMC Ltd. v. National Union Fire Insurance Co. of Pittsburgh*. On the hook for a \$42 million settlement in a False Claims Act suit for entering into illegal referral agreements with community clinics, the hospital policyholder filed suit against its insurer for denial of coverage. On behalf of the defendant, Mark secured a motion to dismiss without leave to amend, with the court holding that coverage is barred because the hospital provided untimely notice of the two claims to the insurer.
- Member, Defense Executive Committee in the Tribune Fraudulent Conveyance Litigation, the largest fraudulent conveyance class action ever brought involving more than 5,000 defendants and arising out of the Tribune Co. leveraged buyout.
- *Confidential* (2016). Won a unanimous defense verdict after a six-week jury trial involving claims of over \$29 million for alleged financial elder abuse.
- *Johnson & Johnson Services, Inc. v. Marheine*. Plaintiff was a former senior recruiter for defendant Johnson & Johnson Services Inc. and claimed he was wrongfully terminated for complaining about what he believed were unlawful hiring practices by three of his customers at other Johnson & Johnson companies and sought damages for alleged lost wages, emotional distress, and punitive damages in federal court. After a seven-day jury federal trial, Mark prevailed for the defense.
- *Hills v. Indymac Mortgage Holdings, Inc.* Mark served as lead trial and appellate lawyer in successful one-week bench trial of real estate specific performance claim; won \$440,000 in fees for his client and successfully defended the verdict on appeal.
- *Confidential*. Mark won a \$2.4 million award for breach of contract between two health care providers after a two-week arbitration.
- *Antounian v. Louis Vuitton Malletier*, 189 Cal. App. 4th 438, 117 Cal. Rptr. 3d 3 (2010). Mark obtained judgment of dismissal under California's anti-SLAPP statute for a malicious prosecution case against his client and the client was awarded its attorneys' fees in full in a trial court ruling that was upheld on appeal in a published opinion.
- *In re Harold Kavoussi*. Mark served as lead trial and appellate counsel in successful prosecution of a fraudulent conveyances claim. Judgment for \$4.1 million was affirmed by the Ninth Circuit Court of Appeals.
- *Antounian v. Louis Vuitton Malletier*, 189 Cal. App. 4th 438, 117 Cal. Rptr. 3d 3 (2010).
- *Biosense Webster, Inc. v. Superior Court*, 135 Cal. App. 4th 827, 37 Cal. Rptr. 3d 759 (2006).

- *Dowell v. Biosense Webster, Inc.*, 179 Cal. App. 4th 564 (2009), 102 Cal. Rptr. 3d 1 (2009).
- *Factor Health Mgmt. v. Superior Court*, 132 Cal. App. 4th 246, 33 Cal. Rptr. 3d 599 (2005).
- *Ward v. Nestor*, 884 So. 2d 522 (Fla. 3d DCA 2004).
- *Hilb, Rogal & Hamilton Ins. Servs. v. Robb*, 33 Cal. App. 4th 1812, 39 Cal. Rptr. 2d 887 (1995).
- *Urez Corp. v. Superior Court*, 190 Cal. App. 3d 1141, 235 Cal. Rptr. 837 (1987).
- *Ron Yates Constr. Co. v. Superior Court*, 186 Cal. App. 3d 337, 230 Cal. Rptr. 629 (1986).
- *Canut v. Lyons*, 450 F. Supp. 26 (C.D. Cal. 1977).

All Insights

03.01.2021	California Supreme Court Prohibits Rounding Meal Break Time
01.20.2021	California's COVID-19 Exposure Notification Law May Spread to Other States
07.11.2019	Court Finds No Coverage for False Claims Act Suit
02.25.2019	Court Finds No Coverage for \$42 Million False Claims Act Suit Due To Late Reporting
06.14.2018	Must a Plaintiff Representing Unnamed Parties Under California's Private Attorney General Act Comply with Rule 23's Requirements?
12.17.2017	Minimum Wage in the Many 'States' of California
10.25.2017	Ninth Circuit Says Plaintiff Might Get Fooled Again
10.24.2017	Ninth Circuit Says Plaintiff Might Get Fooled Again
06.26.2017	New Criminal History Hiring Regulations for California Employers
07.28.2016	California Supreme Court Holds that Whether Arbitration Will Proceed on Class Basis is an Issue for Arbitrator, not Court
06.12.2016	Court Finds that False Claims Act Suit Alleges Uninsurable "Willful Acts"
04.04.2016	California Supreme Court Rules Employers Must Provide Suitable Seats to Workers When Reasonably Permitted by the Job and Circumstances

02.15.2016 Food for Thought: 2015 Litigation Annual Review

12.14.2015 Supreme Court Confirms Enforceability of Class Action Waivers

12.06.2015 California Supreme Court Endorses More Consumer False Advertising Litigation in Organic Food Decision

12.06.2015 Food for Thought: Organic Food Act Doesn't Preempt Certain State Law Mislabeling Claims

10.06.2015 CFPB Proposes Banning Use of Pre-Dispute Arbitration Agreements in Consumer Class Actions

09.29.2015 California Employment Law and Arbitration: The Battle Intensifies

04.10.2015 Employment Settlement "Don't Reapply" Clauses Threatened by Ninth Circuit Expansion of California's Business and Professions Code Section 16600

09.18.2014 Legislation Reforms California's Insurance Community Investment Program

07.31.2014 The Art of Cross-Examination, Essays from the Bench and Bar

06.23.2014 California Law on Arbitration Changes... Again

05.01.2014 Emails
The Journal of the Seventh Circuit Bar Association

04.01.2013 A 40-Year Retrospective on Litigation

01.09.2012 GM's Volt: the politicization of a car

07.07.2010 Supreme Court Attacks Plaintiffs' Bar

07.01.2010 Attorney's Fees: How to Avoid a Conflict With Your Client

06.04.2010 The Price of Political Fame

10.01.2009 California Joins the E-Discovery Age

01.01.2009 Mastering the Blind Cross-Examination

10.01.1994 Things You Have Wanted to Tell a Judge (But Didn't Dare)

All News

01.21.2021 Carlton Fields Los Angeles Office Managing Shareholder Mark A. Neubauer Named to Southern California Super Lawyers 2021 List

05.01.2020 Carlton Fields Recognized as 2020 Top Firm for Insurance for Third Consecutive Year

02.14.2020 The Long View: Carlton Fields is a One-Stop Shop for Companies Looking to Capitalize on Growth Markets

01.07.2020 Carlton Fields' Trailblazing Cybersecurity and Privacy Practice Welcomes Prominent Los Angeles Technology Lawyer Christina M. Gagnier

10.23.2019 Carlton Fields' Blockchain and Digital Currency Co-Leader Bolsters Los Angeles Office

10.14.2019 Carlton Fields' Mark A. Neubauer Featured in Los Angeles Business Journal

09.26.2019 Carlton Fields' Los Angeles Office Expands Its Transactional Practice

09.09.2019 Carlton Fields' Los Angeles Office Relocates to Century Plaza Towers

01.30.2019 Carlton Fields Los Angeles Shareholder Mark A. Neubauer Named to Southern California Super Lawyers 2019 List

11.01.2018 Los Angeles Business Journal Names Mark Neubauer a Leader in Law

08.31.2018 Carlton Fields Nabs Entertainment Litigator For L.A. Office

08.28.2018 Top Litigator Steven B. Weisburd Joins Carlton Fields' Los Angeles Office

08.02.2018 Calif. High Court's Starbucks Decision: Bombshell or Blip?

07.24.2018 American Bar Association Appoints Mark A. Neubauer to Standing Committee on Publishing Oversight

06.05.2018 Calif. Court Affirms Louis Vuitton Class Action Waivers

08.15.2017 78 Carlton Fields Attorneys Named "Best Lawyers in America"

06.21.2017 Carlton Fields Launches Financial Elder Abuse Practice

Recognition

- "Court Finds No Coverage for \$42 Million False Claims Act Suit Due To Late Reporting" recognized as a Top Article in Healthcare by the 2020 *JD Supra* Readers' Choice Awards
- Finalist, Leaders in Law Award, *Los Angeles Business Journal* (2018)
- Southern California Super Lawyers, Business Litigation, *Super Lawyers Magazine* (2007–2019)
- *The Best Lawyers in America*, Bet-the-Company Litigation, Commercial Litigation, Labor & Employment Litigation, and Intellectual Property Litigation (2006–2021)
- Top Rated Lawyer in Intellectual Property Law, ALM Media and Martindale-Hubbell (2020)
- Top Labor & Employment Lawyers, *Daily Journal* (2010, 2012)
- Top Defense Verdicts, *Daily Journal* (2010)
- Public Counsel Annual Pro Bono Award for Impact Litigation (2014)
- ACLU Pro Bono Lawyer of the Year
 - Educational Equity Award for work on the *Cruz v. California* class action (2016)
 - Pro Bono Civil Rights Award for work on the Rancho Los Amigos Hospital class action (2005)

Professional & Community Involvement

- American Bar Association
 - Standing Committee on Publishing Oversight (2018)
 - Litigation Section Senior Editor (2018–2019)
 - Publications and Content Officer (2015–2018)
 - Board of Editors, *ABA Journal* (1998–2006)
 - Litigation Section Council Member (1996–1999)
 - Editor-in-Chief, *Litigation Journal* (1994–1996)
 - Associate Editor (1983–1994)
- Association of Business Trial Lawyers
 - President (1991–1992)
 - Vice President
 - Secretary

- Treasurer
 - Board of Governors
 - Editor, *ABTL Report*
- California State Bar
 - Litigation Section Chair (1989–1990)
 - Litigation Section Vice Chair
 - Litigation Section Treasurer
 - Executive Committee
- Los Angeles County Bar Association
 - Assistant Vice President (1999–2000)
 - Board of Trustees (1998–1999)
 - Judicial Appointments Committee (1997–1999)
- Los Angeles County Bar Foundation
 - Board of Directors (1996–2002)
- Westside Legal Services
 - Board of Directors (1982–1985)

Speaking Engagements

- "Experts and Attorneys Working Together to Resolve Cases Before Trial," ABA Litigation Section Regional CLE Workshop, Los Angeles, CA (September 28, 2017)
- "Project Management and Innovation," Carlton Fields In-House Counsel Forum, Orlando, FL (March 2016)
- "Labor and Employment Law Jeopardy – New Workplace Challenges That Can Put Your Company at Risk," Carlton Fields In-House Counsel Forum, Orlando, FL (March 2016)
- "Critique of Cross-Examination; Questions and Answers," Anatomy of a Trial, ABA Litigation Section Annual Meeting (April 9, 2014)
- "Trying the Arbitration Case: What Lawyers and Arbitrators Need to Know About Commercial Arbitration," Los Angeles County Bar Association (January 23, 2014)
- "Critique of Opening Statements; Questions and Answers," Anatomy of a Trial, ABA Litigation Section Annual Meeting (April 24, 2013)

Credentials

EDUCATION

- UCLA School of Law (J.D., 1976)
 - Associate Editor, *UCLA Law Review*

COURT ADMISSIONS

- U.S. Court of Appeals, Second Circuit
- U.S. District Court, Central District of California

- Northwestern University (M.S., 1973)
- Northwestern University (B.S., with distinction, 1972)
- U.S. District Court, District of New Jersey

BAR ADMISSIONS

- California
- District of Columbia
- Wisconsin

Areas of Focus

PRACTICES

- Administrative Litigation and Appeals
- Appellate & Trial Support
- Business Transactions
- Cannabis Law
- Class Actions
- Consumer Finance
- Creditors' Rights and Bankruptcy
- Development
- Distressed Health Care
- Financial Elder Abuse
- Government Law & Consulting
- Institutional Investment and Finance
- Intellectual Property
- Investment and Ownership
- Labor & Employment
- Lending
- Life, Annuity, and Retirement Litigation
- Life, Annuity, and Retirement Solutions
- Litigation and Trials
- Mass Tort and Product Liability
- Media, Entertainment, Music & Sports
- Pharmaceuticals and Medical Devices
- Property & Casualty Insurance
- Real Property Litigation

INDUSTRIES

- Banking, Commercial, and Consumer Finance
- Construction
- Health Care
- Real Estate
- Securities & Investment Companies

- Securities Transactions and Compliance
- Technology
- Telecommunications
- Telephone Consumer Protection Act
- Title Insurance
- Trade Secrets / Noncompete Litigation and Consulting